

REMARKS

Claims 1-20 and 22-29 remain in this application and claims 30 and 31 are added. Claims 1-29 are rejected. Claim 21 is cancelled herein. Claims 1-5, 9, 15, and 20 are amended herein to clarify the invention and to address matters of form unrelated to substantive patentability issues.

SPECIFICATION OBJECTION

The specification is objected to for not supporting the subject matter of claims 4 and 24. The specification is now amended to specifically include the subject matter of claim 4 of heating air to activation temperature and then heating the peroxide aerosol with the air. Production of aerosol peroxide at ambient temperature is recited at page 6, line 3. Withdrawal of the objection is respectfully requested.

CLAIM OBJECTION

The claims are objected to due to an error in numbering. The claims are now renumbered as suggested by the Examiner.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1, 2 and 21 are rejected as indefinite under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter of the invention as a result of informalities stated in the Office Action. The claims are amended to remove or correct the informalities noted in the Office Action. Therefore, reconsideration of the rejection of claims 1, 2 and 21 and their allowance are earnestly requested.

CLAIM REJECTIONS UNDER 35 U.S.C. §103(a)

Claims 1, 2, 4-8, 10-12 are rejected as obvious over the Vokins reference in view of the Palaniappan reference under 35 U.S.C. §103(a). Claims 9, 15-20, and 23-29 are rejected as obvious over the Vokins reference in view of the Palaniappan reference and further in view of the Reinecke reference under 35 U.S.C. §103(a). Claim 3 is rejected as obvious over the Vokins reference in view of the Palaniappan reference and further in view of the Dronet reference under 35 U.S.C. §103(a). Claim 13 is rejected as obvious over the Vokins reference in view of the Palaniappan reference and further in view of the Hatanaka reference under 35 U.S.C. §103(a). The applicant herein respectfully traverses these rejections.

For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art. Furthermore, it is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art.

Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416, 420 (Fed. Cir. 1986) citing *In re Wesslau*, 353 F2d 238, 241, 147 USPQ 391, 393 (CCPA 1965). References must be taken in their entireties, including those portions which argue against obviousness. *Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc.*, 230 USPQ 416, 420 (Fed. Cir. 1986). It is respectfully submitted that the whole references do not provide sufficient suggestion or expectation of success to support an obviousness rejection.

Claims 1 and 15 are now amended to include the temperature ranges of claims 4 and 9. Specifically, the starting temperature is in a range of about 60° to 90°C while the activation temperature is in a range 90° to 120°C. The peroxide aerosol and the sterile air are applied for time periods sufficient to keep interior walls of the bottles at a permissible temperature. This prevents damage to the temperature sensitive plastic of the bottles.

It is respectfully submitted that the two new referenced cited in the Office Action, i.e., the Vokins '841 reference and the Hatanaka reference would not suggest the present invention in combination with the prior applied references which have been previously discussed. According to the Vokins reference the container, which is to be sterilized, is preheated in order to enhance the sterilization process. Hydrogen peroxide is blown into the container in vapor form at a temperature of 108°C. Subsequently, the container is dried by blowing in hot air at a temperature of about 150°C. These steps differ appreciably from the process steps of the method of the application and are not suitable for anticipating the invention or making it obvious, even in combination with the publications cited in the last Office Action. Clearly the Volkins reference teaches temperatures higher than those of the present invention which would not be conducive to the goal of preventing damage to the temperature sensitive plastic materials of the bottles.

According to the Hatanaka reference, a hydrogen peroxide gas, having a temperature higher than the condensation temperature of the surface of a container that is to be sterilized, is supplied to such a container and condensed on the surface. At the same time, the temperature of the surface of the container is kept at a value below the condensation temperature. Subsequently, the hydrogen peroxide is removed by the hot air. The starting substrate is a 35% aqueous solution of hydrogen peroxide, which is evaporated at 108°C and, in the vapor state, contains

hydrogen peroxide at a concentration of 8%. Due to the condensation, a hydrogen peroxide concentration of 71% is produced in the condensate. The surface, at which the aqueous hydrogen peroxide solution is evaporated, has a temperature between 140° and 180°C. The evaporated hydrogen peroxide is transported with hot air having a temperature ranging from 140° to 180°C. Again, these temperature ranges are not conducive to the goal of the invention. While Hatanaka is cited for teaching a time range of 5 seconds, this range is applicable only to the conditions of the Hatanaka process and would not be construed applicable to other conditions. In other words, the requisite suggestion to combine the references is absent as is a teaching of a reasonable expectation of success as discussed below.

In the Hatanaka reference a film is formed by the condensation of the hydrogen peroxide, which is heated significantly above the starting temperature. This film brings about sterilization while it resides on the surface. The temperature relationships and course of the steps of the process are completely different in the case of this reference, even if condensate is formed at the surface of the container, which is to be sterilized.

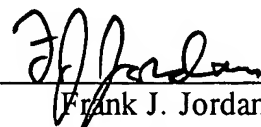
Thus, it is respectfully submitted that the rejected claims are not obvious in view of the cited references for the reasons stated above. Reconsideration of the rejections of claims 1-20 and 22-29 and their allowance are respectfully requested.

CLAIMS FEES

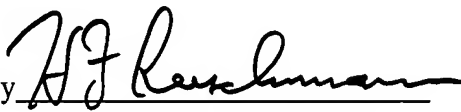
One further claim in excess of twenty is added. Accordingly, please charge the fee of \$18.00 to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Respectfully submitted,
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